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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
DINH, KHANH Q	

ART UNIT	PAPER NUMBER
2151	

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/955,469	TRETHEWEY, JAMES R.	
	Examiner	Art Unit	
	Khanh Dinh	2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 February 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This is in response to the Response filed on 2/15/2005. Claims 1-40 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-5, 9-20 and 24-34 rejected under 35 U.S.C. 102(e) as being unpatentable over Bruck et al. (hereafter Bruck), US pat. No.6,801,949 in view of Brendel et al., U.S. pat. No.5,774,660.

As to claim 1, Bruck discloses a method of providing a remote networked computer with a service session using one of a plurality of similarly functioning software applications residing on different servers (206, 208, 210, 212 fig.2) with different unique network addresses, the method comprising:

receiving, from the remote computer [one of clients' computers (not shown) connected to Internet (202 fig.2) to servers] and at a device having a unique network address (providing network assignments including IP addresses information to servers) that is different from the network address of any of the servers, a packet-based message comprising a request for a service session (see abstract, fig.2, col.6 lines 25-65).

assigning one of the several servers (206, 208, 210, 212 fig.2) to be used by the remote computer in the service session and transmitting to the remote computer (management of network servers to assure network availability), a packet-based message comprising the unique network address of the assigned server (using of dynamically assignable IP addresses for each subnet) for the remote user (client) to address subsequent messages during the service session (see fig.3, col.7 line 11 to col.8 line 49).

Bruck does not specifically disclose a real network address of a server. However, Brendel in the same network environment discloses a real network address of a server [assigning real Internet Protocol (IP) address to a server rather than the virtual address, see Brendel's fig.17, abstract, col.16 line 46 to col.17 line 57]. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Brendel's teachings into the computer system of Bruck to process data information because it would have enabled routers to use the real IP address of the assigned server to route data packets to assigned server (see Brendel's col.16 lines 46-63) and thus balanced the load on each server in a communications network.

As to claim 2, Bruck discloses receiving, at the assigned server, subsequent packet-based messages from the remote computer (client) as part of the service session: the subsequent messages each being addressed to the unique network address of the assigned server (assigning a primary IP address to a best server, see col.8 lines 1-49 and col.9 lines 31-59). Bruck does not specifically disclose a real network address of a

server. However, Brendel in the same network environment discloses a real network address of a server [assigning real Internet Protocol (IP) address to a server rather than the virtual address, see Brendel's fig.17, abstract, col.16 line 46 to col.17 line 57]. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Brendel's teachings into the computer system of Bruck to process data information because it would have enabled routers to use the real IP address of the assigned server to route data packets to assigned server (see Brendel's col.16 lines 46-63) and thus balanced the load on each server in a communications network.

As to claim 3, Bruck discloses, receiving, at the assigned server, periodic packet-based test messages from the remote computer, and packet-based message back to the remote computer, and in response, transmitting a indicate an operable connection (ensuring no single server machine become overload, see col.8 lines 1-49 and col.9 lines 31-59).

As to claim 4, Bruck discloses that the device that receives the message comprising a request for a service session is load balancer (104 fig.1) (see col.2 lines 6-31 and col.8 lines 1-49).

As to claims 5 and 9, Bruck discloses that the software applications involve interaction between multiple remote computers and are peer-to-peer applications (see fig.4, col.8 line 51 to col.9 line 58).

As to claim 10, Bruck discloses wherein the message comprising a request for a service session includes a network address header containing the unique network address of the load balancer, a data port address header, and data fields associated with the software application (subnet addresses, list of nodes, flags, see figs.7, 10, 12, col.11 lines 12-56 and col.18 line 44 to col.19 line 65).

As to claim 11, Bruck discloses that the data fields associated with the software application includes a length field, a type field, and a field containing the network address of the remote computer that requested the service session (fields of fig.26, see figs. 26, 27, col.36 lines 7-51 and col.37 line 17 to col.38 line 29).

As to claim 12, Bruck discloses that the message transmitted address of the assigned server includes a network address header containing a unique network address (IP addresses) associated with the remote computer that requested the service session data port address header and data fields associated with the software application (sequence fields, see figs.7, 10, 12, col.11 lines 12-56 and col.18 line 44 to col.19 line 65). Bruck does not specifically disclose a real network address of a server. However, Brendel in the same network environment discloses a real network address of a server

[assigning real Internet Protocol (IP) address to a server rather than the virtual address, see Brendel's fig.17, abstract, col.16 line 46 to col.17 line 57]. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Brendel's teachings into the computer system of Bruck to process data information because it would have enabled routers to use the real IP address of the assigned server to route data packets to assigned server (see Brendel's col.16 lines 46-63) and thus balanced the load on each server in a communications network.

As to claim 13, Bruck discloses that the data fields associated with the software applications includes a length field, type field and a field containing the network address of the assigned server (information about the request server, see figs.7, 10, 12, col.11 lines 12-56 and col.18 line 44 to col.19 line 65). Bruck does not specifically disclose a unique real network address of a server. However, Brendel in the same network environment discloses a real unique network address of a server [assigning real Internet Protocol (IP) address to a server rather than the virtual address, see Brendel's fig.17, abstract, col.16 line 46 to col.17 line 57]. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Brendel's teachings into the computer system of Bruck to process data information because it would have enabled routers to use the real IP address of the assigned server to route data packets to assigned server (see Brendel's col.16 lines 46-63) and thus balanced the load on each server in a communications network.

As to claims 14-16, Bruck discloses that the unique network addresses are all unique IP addresses, the packet-based message comprising the unique network address the assigned server is transmitted by the assigned server and comprising the unique network address of the assigned server is transmitted by a load balancer (104 fig.1) (see figs.1, 7, col.2 lines 6-31, col.8 lines 1-49 and col.18 line 44 to col.19 line 65). Bruck does not specifically disclose a real network address of a server. However, Brendel in the same network environment discloses a real network address of a server [assigning real Internet Protocol (IP) address to a server rather than the virtual address, see Brendel's fig.17, abstract, col.16 line 46 to col.17 line 57]. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Brendel's teachings into the computer system of Bruck to process data information because it would have enabled routers to use the real IP address of the assigned server to route data packets to assigned server (see Brendel's col.16 lines 46-63) and thus balanced the load on each server in a communications network.

Claim 17 is rejected for the same reasons set forth in claim 1. As to the added limitations, Bruck further discloses a load balancer (104 fig.1) having a unique network address different from the unique network address (IP address) of any other servers (see also fig.1, col.2 lines 6-31 and col.8 lines 1-49). Bruck does not specifically disclose a real network address of a server. However, Brendel in the same network environment discloses a real network address of a server [assigning real Internet Protocol (IP) address to a server rather than the virtual address, see Brendel's fig.17,

abstract, col.16 line 46 to col.17 line 57]. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Brendel's teachings into the computer system of Bruck to process data information because it would have enabled routers to use the real IP address of the assigned server to route data packets to assigned server (see Brendel's col.16 lines 46-63) and thus balanced the load on each server in a communications network.

As to claim 18, Bruck discloses that the first and second processors are the same, and the first and second memory are the same, the second processor and second memory thus being part of the load balancer (see also fig.1, col.2 lines 6-31 and col.8 lines 1-49).

As to claims 19 and 20, Bruck discloses that the second processor and the second memory are part of the assigned server and applications involve interaction between multiple remote users (assigning IP address to each server machine cluster, see fig.4, col.8 line 51 to col.9 line 58).

Claims 24-29 are rejected for the same reasons set forth in claims 9-14 respectively.

Claims 30-34 are rejected for the same reasons set forth in claims 1 and 10-13 respectively.

4. Claims 6-8, 21-23 and 35-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruck in view of Brendel as in item 3 above and further in view of Bowman-Amuah et al.(hereafter Bowman-Amuah), US pat. No.6,289,382.

As to claim 35, Bruck discloses a computer readable medium having stored thereon program instructions that when executed by a processor in a networked computer perform the following functions:

a predetermined user command transmits, in response to input to the networked computer a packet-based message comprising a request, the message being addressed to a unique network service session to a remote address associated with the request, the request comprising a plurality of different servers with different unique network addresses, each thereon similarly functioning software applications to provide the servers (206, 208, 210, 212 fig.2) having a service session (providing network assignments including IP addresses information to servers, see abstract, fig.2, col.6 lines 25-65).

in response to receiving from the request packet-based message comprising a unique network address for one of the plurality of servers that has been assigned for the transmits during the service session packet-based messages addressed to the unique network address of the assigned server (see fig.3, col.7 line 11 to col.8 line 49). Bruck does not specifically disclose a real network address of a server. However, Brendel in the same network environment discloses a real network address of a server [assigning real Internet Protocol (IP) address to a server rather than the virtual address,

see Brendel's fig.17, abstract, col.16 line 46 to col.17 line 57]. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Brendel's teachings into the computer system of Bruck to process data information because it would have enabled routers to use the real IP address of the assigned server to route data packets to assigned server (see Brendel's col.16 lines 46-63) and thus balanced the load on each server in a communications network.
Neither Bruck nor Brendel specifically disclose a request including a service provider. However, Bowman-Amuah in the same network environment discloses a request including a service provider (see abstract, col.1 lines 21-53 and col.128 lines 6-50). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement a service provider of Bowman-Amuah in the computer system of Bruck to provide data content to servers because it would have provided efficient controls for triggering of distribution of digitalized content to selected groups of computer servers in a communication network.

As to claim 36, the combination of Bruck and Brendel and Bowman-Amuah discloses a service session involves interaction between multiple networked computers remote from the service provider (see Bruck's fig.3, col.7 line 11 to col.8 line 49, Brendel's col.16 lines 46-63 and Bowman-Amuah's col.1 lines 21-53 and col.128 lines 6-50). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Bowman-Amuah's teachings into the computer system of Bruck to

provide data content to clients because it would have enabled servers to provide a plurality sets of services to clients over a communications network.

As to claims 6-8, 21-23, 37 and 38, neither Bruck nor Brendel discloses providing Internet telephony service, multiple-user gaming applications and music-sharing applications. However, Bowman-Amuah in the same network environment further discloses providing Internet telephony service, multiple-user gaming applications and music-sharing applications (providing multiple services in a plurality of computer programming applications, see col.15 line 54 to col.16 line 32 and col.143 lines 15-53). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Bowman-Amuah's teachings into the computer system of Bruck to provide data content to clients because it would have enabled servers to provide a plurality sets of services to clients over a communications network.

As to claim 39, Bruck further discloses periodically transmits during the service session packet-based test messages addressed to the unique network address of the assigned server and determines that a connection with the assigned server is disconnected if a packet-based message responding to the test message is not received from the assigned server within a predetermined period of time (using Sequence number field to process data information, see fig.7, col.11 line 12 to col.12 line 64 and col.13 lines 10-37). Bruck does not specifically disclose a real network address of a server. However, Brendel in the same network environment discloses a real network address of a server

[assigning real Internet Protocol (IP) address to a server rather than the virtual address, see Brendel's fig.17, abstract, col.16 line 46 to col.17 line 57]. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Brendel's teachings into the computer system of Bruck to process data information because it would have enabled routers to use the real IP address of the assigned server to route data packets to assigned server (see Brendel's col.16 lines 46-63) and thus balanced the load on each server in a communications network.

As to claim 40, the combination of Bruck and Brendel and Bowman-Amuah discloses that in response to determining that a connection with the assigned server disconnected, transmits a packet-based message comprising a request for a service session to the remote service provider and addressed to the unique network address associated with the service provider (see Bruck's fig.7, col.11 line 12 to col.12 line 64 and col.13 lines 10-37 and Bowman-Amuah's col.1 lines 21-53 and col.128 lines 6-50). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Bowman-Amuah's teachings into the computer system of Bruck to provide data content to clients because it would have enabled servers to provide a plurality sets of services to clients over a communications network.

Response to Arguments

5. Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Claims 1-40 are rejected.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (571) 272-3936. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 5:00 P.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung, can be reached on (571) 272-3939. The fax phone number for this group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305 -9600.

Khanh

Khanh Dinh
Patent Examiner
Art Unit 2151
4/30/05